United Nations S/2004/476

Security Council

Distr.: General
10 June 2004

Original: English

Letter dated 8 June 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 21 May 2003 (S/2003/592).

The Counter-Terrorism Committee has received the attached third report from Sweden submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Alexander V. **Konuzin**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-39015 (E) 140704

Annex

Letter dated 3 June 2004 from the Permanent Representative of Sweden to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In reference to my earlier letter dated 6 May 2004, please find attached Sweden's third report to the Committee, which was due on 15 August 2003 (see enclosure).

We apologize for the delay and any inconvenience this may have caused.

(*Signed*) Pierre **Schori**

Enclosure

Complementary report on implementation of counter-terrorism measures in Sweden

I.2. Regarding the criminalization of terrorist financing and the prosecution of offenders:

1.2.1 The CTC would be grateful for a further progress report on the enactment and implementation in Swedish law of the two instruments mentioned in the second report:
- The UN Convention for the Suppression of Terrorist Financing, which Sweden has recently ratified;
- The measures adopted by the European Union in framing its anti-terrorist policy.

To implement the **UN Convention for the Suppression of Terrorist Financing**, ratified by Sweden (6 June 2002), a new **Act on Penalty for Financing of Serious Crimes** entered into force on 1 July 2002. (According to this act it is punishable to collect, provide or receive money or other funds with the intention that they should be used, or in the knowledge that they are to be used, in order to commit such serious crimes, which in international conventions are classified as terrorism. Attempt to commit such crimes is also punishable. Banks and financial institutions are – in the same way as regarding suspected money laundering – obliged to observe and to the police report such transactions which can be suspected to comprise funds which will be used to finance serious crime).

To fulfil the obligations of the **European Union Framework Decision on Combating Terrorism**, a new **Act on Criminal Responsibility for Terrorist Crimes** entered into force on 1 July 2003. (The new bill contains a list of already criminalized acts that may under certain circumstances be regarded as terrorist crimes. What is required is that the act is to:
1) Inflict serious fear on a population or a group of population,
2) Unduly compel a public agency or an international organisation to take measures or abstain from measures, or
3) Seriously destroy fundamental political, constitutional, economical or social structures in a state or intergovernmental organisation. Attempt, preparation or conspiracy to commit terrorist crimes or failure to disclose such crimes is also punishable).

To fulfil the obligations of the **European Union Framework Decision on a European Arrest Warrant**, a new **Act on Surrender from Sweden According to a European Arrest Warrant** entered into force on 1 January 2004.

1.2.2. Effective implementation requires an appropriate monitoring mechanism to ensure that the funds collected by organizations, which have or claim to have charitable, social or cultural goals are not diverted to purposes other than their stated purposes, in particular to the financing of terrorism. The response given in the supplementary report indicates that no legislative action has been taken in this matter. The CTC would welcome particulars as to how Sweden currently meets, or proposes to meet, that requirement.

If such organisation conducts business as a public limited company, private limited company or as a trust or foundation it is required to register with the competent government authorities.

A non-profit organisation is required to register its activity in the Trade Register under the Trade Register Act (1974:157) if it conducts business. Only a non-profit organisation that does not conduct business is not encompassed by requirements to register. Registration information is unconditionally available both to the authorities and to the public.

For the moment there is no proposal for a registration system regarding non-profitable organisations that does not conduct business.

1.2.3. The CTC has noted that Sweden has a body specialising in counter-terrorism. Nevertheless, it is not clear from the report how Sweden's anti-terrorism policy is elaborated or which bodies are in charge for its enforcement. The CTC would appreciate clarification on this point. (It is possible to answer this question in a separate annex for reasons of confidentiality.)

As regards anti-terrorism policy, each Ministry is responsible for measures against terrorism in its own area of competence. As far as the international aspects are concerned, the Ministry for Foreign Affairs is in charge of general co-ordination. The Prime Minister's Office also has a role in co-ordinating the Government's internal and external efforts in the area.

In principle, all decisions taken by the Swedish Government regarding new legislation, state budget, etc. are taken by all the Ministers collectively. To this end, the individual Ministries prepare their different files through a process that involve the Government Office as a whole. Therefore, there exist since long in Sweden an elaborated structure and process for very close co-operation between Ministries in all areas of governmental responsibility. Consequently, there has not been a need for a specific coordinating body regarding the fight against terrorism. The necessary co-ordination takes place within the existing governmental structures and can take different forms depending on the issue at hand (joint meetings, written procedures, etc).

1.2.4. The CTC also understands that there is a proposal to reorganise the Swedish Security Police and increase its power. Please provide the CTC with an update on how this would affect Sweden's ability to deal with terrorist threats? What is the time frame for the reorganization?

Within the Ministry of Justice, the Division for Police Issues, including Public Order and Safety is responsible for legislation pertaining police, public order and safety, including counter-terrorism.

The policies elaborated in the Swedish Ministries are realized in the independent agencies. The agency with the overall responsibility for counter-terrorism in Sweden is the Security Service (SÄPO), which is an independent agency within the Swedish National Police Board. The Swedish Security Service deals mainly with intelligence gathering and analysis. Its general tasks and competences are set out in a written formal instruction from the Government. The Security Service is responsible for all the operative work, the investigations etc. concerning counter-terrorism, sometimes in co-operation with ordinary local police, the National Criminal Investigation Department (NCID), the Military Intelligence and Security Service, the Signal Intelligence (SIGINT) Agency etc depending on the case at hand.

In December 2001 the Swedish Government appointed a committee of inquiry to map out and analyse the overall preparedness and capability of Swedish authorities and other Swedish public agencies to prevent, combat and generally deal with major terrorist attacks and other similar extraordinary events should they take place in Sweden. The committee of inquiry took the name "The September 11 Committee".

The tasks of the Committee included reporting whether or not changes are needed in this area, for example as regards legislation or other statutory regulation. On 26 March 2003 the Committee reported back to the Government. The report was sent out to all relevant authorities and institutions for comments, which is the usual procedure in Sweden.

The Government offices are currently analysing the pros and cons of these proposals and the reactions to them. As regards the general proposals on the future organization of the Security Service, no decision has yet been taken. Although a transformation into a civil non-police service might entail some advantages, the advantages to keep the Security Service as police organization seem to prevail.

The working methods such as secret wire tapping, secret telecommunications surveillance and secret camera surveillance are in Sweden as in other countries important instruments for collecting intelligence to deal with terrorism and other serious crimes. The preconditions for the employment of such

compulsory measures are laid down in the Code of Judicial Procedure and in the Compulsory Measures in Certain Criminal Cases (Special Provisions) Act (1952:98). These preconditions specify that compulsory measures may be used within a preliminary investigation of a criminal case, that the compulsory measures are directed against someone who is reasonably suspected of committing an offence of a certain degree of severity and that it is of extraordinary importance for the investigation.

Consequently, compulsory means may be difficult to use when the sole aim is to prevent criminal acts. The Ministry of Justice will soon launch an inquiry tasked primarily with proposing legislation on how current provisions on compulsory means may be used to prevent serious crime. It is expected that it will report back to the Ministry in spring 2005. The necessity to ensure that compulsory means is used with due regard to rule of law and fundamental rights is of course a crucial aspect to be considered.

1.2.5. The report asserts that Swedish Courts exercise considerable extraterritorial jurisdiction in a variety of cases that could be considered terrorist cases. In practice, has Sweden ever exercised that jurisdiction in a terrorism-related case?

Swedish Courts do exercise extraterritorial jurisdiction. Such jurisdiction has however not been exercised in a specific terrorist-related case.

1.3 Regarding the protection of the economic and financial system:

1.3.1. Can Sweden indicate how it implemented the FATF recommendations following on the evaluations, which that body carried out in Sweden in 1997 and 1998? Please outline the improvements pertaining to the protection of the Swedish economic and financial system resulting from these reports?

To start with we assume that the question refers to the evaluations that were carried out by the FATF in 1992 and in 1998.

The evaluation in 1992 was conducted before Sweden had adopted the Act (1993:768) on measures against money laundering. The implementation of Act 1993:768 essentially meant that Sweden adopted the FATF recommendations. The evaluation in 1998 showed that there were some small deficiencies in the Swedish legislative system. As result of the evaluation and on a recommendation from the FATF, Sweden criminalized the offence "money receiving" in the Swedish penal code. The other suggestions from the FATF were more related to the EU level and left to the EU to deal with in a broader context.

On 1 January 2001 some important amendments to the Swedish anti-money laundering legislation entered into force. Through the new legislation Sweden broadened the scope of the act on measures against money laundering (1993:768) by including money remittance companies.

Following the FATF XII Self –Assessment exercise Sweden was able to report to the FATF in 2001 that Sweden fully was in compliance with the recommendations that dealt with terrorist financing (8, 10-12, 14-18, 20-21 and 28).

1.3.2. Can Sweden explain how it has implemented the Special Recommendations of FATF on the Financing of Terrorism (numbers 6, 7 and 8)?

VI Alternative Remittance

This recommendation is primarily implemented to Swedish law through Act (1996:1006) on Exchange and Remittance Services. It should be mentioned that there is an existing proposal on changing the name of the law but this adjustment does not revise the content of the Act on Exchange and Remittance Services.

VII Wire Transfers

Sweden is not yet in compliance with the recommendation on wire transfers other than the requirement for banks and financial institutions in the Swedish legislation on bookkeeping to retain information on the originator of funds transfers.

VIII Non-profit Organizations

There is no general legislation or general registration requirement for non-profit organizations. However if such an organization conducts business, it must be registered in the Trade Register under the Trade Register Act (1974:157) (also see above under comments on 1.2.2).

1.3.3. Sweden would appear to lack a domestic mechanism to identify potential sources of terrorism finances and to disrupt them on its own without a decision by the EU. Are any steps being taken to draft legislation or to give an agency of the Government of Sweden the authority to freeze assets belonging to suspect individuals or entities without an EU decision?

Sweden dutifully implements freezing of assets as decided by the UN and the EU. Assets are frozen in accordance with UN obligations as implemented by

the EU. Furthermore, when there is a suspicion of a terrorist crime, Swedish law allows for seizure and provisional attachment. If there is a subsequent conviction the assets can be forfeited.

1.4 Regarding the international co-operation

In its report, Sweden indicates that it is aware of the strong links between organized crime and terrorism. Does Sweden intend to ratify the UN Convention against Transnational Organized Crime so as to be better protected from this phenomenon?

Sweden deposited her instrument of ratification for the convention mentioned on 30 April 2004.

2. Assistance and guidance

2.1 The CTC is eager to facilitate the provision of assistance and advice in connection with the implementation of the Resolution. The Committee would encourage Sweden to let it know if there are areas in which assistance or advice might be of benefit to Sweden in its implementation of the Resolution or of any areas in which Sweden might be in a position to offer assistance or advice to other States on the implementation of the Resolution.

Sweden does not see any particular need for assistance.

2.4. The CTC maintains a Directory of Information and Sources of Assistance in the field of Counter-terrorism in which all relevant information on available assistance is posted. The CTC notes that there is no mention in the reports submitted by Sweden on areas where it might be able to provide assistance to other states in connection with the implementation of the Resolution.

The Swedish police participate actively in international operations, however, strong priorities must be made in the allocation of resources. The main priority is for the moment being civilian crisis management, which directly as well as indirectly may contribute to strengthen the ability of third countries to fight terrorism.